

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare – Khammam District – Revision Petition filed Under Section 6 of A.P.S.A.L.T.R 1959, by Sri Shaik Shamsuddin S/o Late Kareemuddin R/o Nagaram (V) Burgampad (M), Khammam against the orders of the Additional Agent to Government in IA No.50/2003 in CMA No.73/2003 dt:19-3-2005 – Dismissed- Orders-Issued.

SOCIAL WELFARE (LTR-2) DEPARTMENT

G.O.Ms.No: 225

Dated:24-11-2008.

Read the following:

1. From Sri Nanduri Srinivas Rao, counsel for the Petitioner in Revision Petition dt:18-6-2005.
2. Government Memo No.5526/LTR-2/2005 dt:5-7-2005.
3. From the Hon'ble High Court of A P in W.P No.15657/2005 dt:25-7-2005.
4. From the Additional Agent to Government & Project Officer, ITDA, Bhadrachalam in R.C No. CMA 73/2003 dt:11-4-2006.
5. Government Memo No.5526/LTR-2/2005 dt:17-7-2006 and 16-7-2007.

ORDER:

In the reference 1st read above Sri Shaik Shamsuddin S/o Late Kareemuddin has filed a Revision Petition before the Government against the orders of the Additional Agent to Government in CMA No.73/2003 dt:19-3-2005 in respect of lands admeasuring Acres 3.09 and Acres 2.14 in Sy.No.68 & 69 respectively situated at Pinapaka Village of Burgampad (M) of Khammam District. The main grounds of the appellant in the Revision Petition among others are as follows:-

- i) Mother of the Revision Petitioner acquired possession of the schedule land under agreement of sale dated 5.1.1968 for consideration from its owners and subsequently got it registered under registered sale deed dt.17.6.1975 and therefore the possession of his mother and consequent succession to petitioner are not hit by the provisions of LTR.
- ii) Appellant is claiming possession by way of succession from his mother, who acquired it under agreement of sale dated 5.1.1968 which is long prior to the commencement of the Regulation 1/70 which came into force with effect from 3.2.1970 with prospective effect and ought to have allowed the appeal.
- iii) Mandal Revenue Officer, Burgampahad had issued ryot pass book to the Revision Petitioner.

2. The brief history of the case is that the Agency Divisional Officer, Paloncha had taken up the case suo-moto with the particulars of Village records of Pinapaka (V) of Burgampad (M), Khammam District. On perusal of the pahanies of Pinapaka (V), it was found that the name of the Smt. Sugara Begum find place in the occupant column in the year 1993-94. Hence the Agency Divisional Officer, Paloncha held that the Smt.Sugara Begum came into the possession of the suit land in the year 1993-94 i.e. after 3-2-1970 on which date the LTR came into force and hence the transaction is null and void. According to the recorded evidence put forth before the court it is held proved that the transfer of immovable property situated in scheduled area of non-tribal was made to the another non-tribal in contravention of the sub-section 3 of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 read with Regulation 1/70. In exercise of powers conferred under the Sub-section 2 (a) of the section 3 of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1 of 1959, the Agency Divisional Officer in his proceedings in LTR case No:H/67/95/BPD dt:28-8-2001 ordered ejectment against Smt.Sagura Begum or who ever in possession of the immovable property described in the scheduled mentioned to the orders and to resume it to Government under the cover of Panchanama. Aggrieved by the order of the Agency Divisional Officer, Paloncha Sri Shaik Faqrudin and others has filed an appeal before the Additional Agent to Government. The Additional Agent to Government after giving reasonable opportunity held that the appellants filed the Photostat copy of Sada Sale agreement dt:5-1-1968 and pattedar Pass Book of Sri Shaik Shamsuddin and Land Revenue Receipts for the year (1397 F) 1987-88, 22-3-1989 (1398F), 1984-85, 1986-87, 1983 and 1991 that the appellants have not filed any recorded proof to show that the scheduled land is in their possession before 1970 by filing pahanies for the years 1968-69, 1969-70. in the absence of the any such documentary proof the appellant's version cannot be believed and accepted. The Additional Agent to Government uphold the orders of the Lower Court and ordered the Mandal Revenue Officer, Burgampad is to eject the Non-tribal appellant herein or whomever is in possession of the scheduled land to take over on behalf of Government, and assign to land less poor Tribals and dismissed the appeal vide IA No.50/2003 in CMA No:73/2003 dt:19-3-2005. Aggrieved by the orders of the Additional Agent to Government, Bhadrachalam the petitioner filed revision petition before the Government.

3. In the reference 2nd read above, the Agent to Government, Khammam was requested to furnish parawise remarks and case records and the same were furnished in the reference 4th read above. After examination of the case records, notices were issued to the concerned to attend the hearing of the Revision Petition dt:10-8-2006 and finally heard on 24-7-2007. Counsel for the petitioner was present.

4. Government upon perusal of material documents on record and after hearing arguments of the counsel for revision petitioner, it is established that:-

- i) Shaik Sugaram Begum i.e. mother of the petitioner had purchased the land Acs. 3.09 gts. in Sy.No.68 and Acs.2.14 gts. in S.No.69, totally Acs.5.23 in Pinapaka village of Burgampahad Mandal on 5.1.1968 for Rs.5,000/- from the non-tribal pattedar Thummala Rama Rao and in possession of it. As seen from the pahanies from 1975-76 to 1995-96 her name was found in enjoyers column. If the land was really purchased in the year 1968 and in possession since then, her name should have been recorded in the Revenue records even at least in enjoyer column prior to 1970. Therefore, it was clear that the land was purchased by mother of the petitioner in the year 1975 through registered. Document No.961/75, dt.17.6.75 and the sada sale deed dt.5.1.1968 was invented for the purpose of defeating LTR proceedings.
- ii) The Hon'ble High Court of AP in C.R.P.No.1087/96, dt. 10.8.1998 (Bangaru Rama Thulisamma Vs Yada Masthan Reddy) also held that unstamped and unregistered sale deeds cannot be taken as an evidence of proof according to section 17 "B" of Registration Act.
- iii) The LTR regulation over-rides all other laws including ROR Act and entries in the revenue records or issue of Pass Books without verifying whether the transaction/ownership is hit by LTR or not, do not confer or create any right over the land.
- iv) Thus, it is clear that the mother of the Revision Petitioner purchased the scheduled land in the year 1975 i.e. after commencement of the Regulation 1/70 which is void under Section 3 (1) (a) of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1/1959 read with Regulation 1/70.

5. Government after careful examination of the case records find no reason to dispute with the orders of the Additional Agent to Government & PO ITDA, Bhadrachalam, in IA No:50-2003 in CMA No.73/2003, dt:19-3-2005 and accordingly dismiss the Revision Petition.

6. The Collector, Khammam District / Additional Agent to Government, Bhadrachalam are requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,

Prl. Secretary to Government.

To

The Collector, Khammam District.

(with RPAD of the following records)

1. CMA No.73/2003 containing 1-160 pages only.

The Agent to Government, Khammam District.

The Addl. Agent to Government & PO ITDA, Bhadrachalam, Khammam.

The Special Deputy Collector (TW), Bhadrachalam, Khammam.

The Mandal Revenue Officer, Burgampad (M), Khammam.

Sri Nanduri Srinivas Rao, Advocate,

R/o Bhadrachalam, Khammam District.

Sri Shaik Shamsuddin S/o Late Kareemuddin

R/o Nagaram (V) Burgampad (M), Khammam

Sri Thummala Rama Rao, S/o Late Purushothama Rao,

R/o Nagaram (V) Burgampad (M), Khammam.

Sri Shaik Faqrudin S/o Late Kareemuddin,

R/o Nagaram (V) Burgampad (M), Khammam.

Sri Shaik Khaja Nizamuddin S/o Late Kareemuddin,

R/o Nagaram (V) Burgampad (M), Khammam.

Copy to the P.S to M (TW&RAID).

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// FORWARDED BY ORDER //

SECTION OFFICER